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6 Polaris Boats, LLC

7 UNITED STATES DISTRICT COURT

8 DISTRICT OF NEVADA

9 In Re: LAS VEGAS BOAT HARBOR, INC., a
Nevada Corporation, as owner of a certain 2018
10 Bennington Marine model 25SSRCX Half Admiral
Pontoon Boat, No. 2449, HIN ETWF9242D818, for
11 exoneration from or limitation of liability,

CASE NO: 2:20-cv-01457-JAD-VCF

12 Petitioner.
13

14 **NOTICE OF POLARIS BOATS, LLC'S CLAIMS**

15 POLARIS BOATS, LLC hereby submits its Claims and alleges as follows:

16 1. Polaris Boats, LLC (hereinafter "Polaris") is a limited liability company with its
17 principle place of business in Minnesota.

18 2. Upon information and belief, Leslie Burns, Plaintiff in the underlying action
19 (hereinafter "Ms. Burns" or "Plaintiff") is an individual and a Nevada resident.

20 3. Petitioner Las Vegas Boat Harbor, Inc. ("LVBH") is a Nevada corporation with
21 its principal place of business in Clark County, Nevada. LVBH rents various watercrafts on Lake
22 Mead through the fictitious firm name "Boating Lake Mead." LVBH rented the pontoon boat
23 and motor at issue in this case.

24 4. Whenever it is alleged in these claims that LVBH did any act or thing, it is meant

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1 that LVBH's officers, agents, servants, employees, or representatives did such act or thing and at
2 the time such act or thing was done, it was done with the full authorization or ratification of
3 LVBH or was done in the normal and routine course and scope of business, or with the actual,
4 apparent and/or implied authority of LVBH or its subsidiaries' officers, agents, servants,
5 employees, representatives.

6 5. At all times material to the Claims, the acts and omissions giving rise to this
7 action occurred in Clark County, Nevada.

8 6. Plaintiff has alleged that on or about July 2, 2019, LVBH rented a 2018
9 Bennington Marine model SX25 to Plaintiff and her friends.

10 7. Plaintiff has alleged that LVBH required only three of the nine group members to
11 watch a safety video and did not require any member of the group to possess a boating education
12 card, as required by NRS § 488.750.

13 8. Plaintiff has alleged that she sustained injuries from the propeller on the boat
14 rented from LVBH, including the amputation of her right leg.

15 9. Plaintiff has alleged that LVBH's failure to provide adequate training and
16 warnings to the users and operators of its boat constituted a dangerous condition that caused or
17 contributed to her injuries.

18 10. On or about July 9, 2019, Plaintiff's counsel sent a letter of representation to
19 LVBH, informing it that Plaintiff had retained counsel to represent her interests. The letter also
20 requested that LVBH preserve any evidence relevant to litigation and provide insurance
21 declarations for any policies that might be liable to satisfy a judgment.

22 11. Counsel for LVBH responded on September 11, 2019, on which Defendant
23 Polaris was copied. In this communication, LVBH acknowledged that it received the letter of
24 representation on or about July 9, 2019. LVBH also acknowledged the claim and stated it would

1 preserve the relevant evidence for inspection. This correspondence contained a claim number
2 and classified the case as “pre-litigation.”

3 12. The subject pontoon boat was inspected on September 17, 2019, by
4 representatives for Plaintiff, LVBH, Polaris and Mercury Marine.

5 13. Plaintiff sent a formal demand correspondence on May 14, 2020, to LVBH,
6 Polaris and Mercury Marine.

7 13. Plaintiff filed a complaint in the Eighth Judicial District Court for Clark County,
8 Nevada on June 30, 2020, naming LVBH and improperly naming entities Mercury Marine, Inc.,
9 and Bennington Marine, LLC, on June 30, 2020. Plaintiff filed an amended complaint on July
10 17, 2020, properly identifying Mercury Marine as a division of Brunswick Corporation and
11 Polaris Boats, LLC.

12 14. LVBH filed a Complaint for Exoneration from Liability or Limitation of Liability
13 and an Application for Issuance of Order Directing Notice of Limitation and Enjoining Suits on
14 August 6, 2020.

15 15. The Limitation of Liability Act (LOLA) requires a boat owner to bring an action
16 to limit its liability within six months of receiving notice of a claim.

17 16. LVBH was required to bring a limitation action by January 9, 2020, for the LOLA
18 to apply to its claim.

19 17. LVBH’s Complaint for Exoneration from Liability or Limitation of Liability and
20 Application for Issuance of Order Directing Notice of Limitation and Enjoining Suits were
21 untimely.

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24 ...

1 18. Polaris anticipates Claims against LVBH including, but not limited to,
2 indemnification and contribution arising from the incident that is the subject of Plaintiff's
3 underlying complaint.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Polaris Boats, LLC, prays for judgment against Petitioner Las Vegas
6 Boat Harbor, Inc., dismissing its Complaint for Exoneration or Limitation of Liability with
7 prejudice.

8 Dated this 20th day of August, 2020

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CERTIFICATE OF ELECTRONIC SERVICE

I certify that on the 20th day of August, 2020, service of the above and foregoing
NOTICE OF POLARIS BOATS, LLC'S CLAIMS was made by electronically filing a true
and correct copy of the same to each party addressed as follows:

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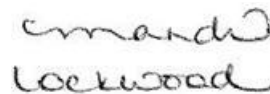
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